

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/30/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000276

FILED: _____

GOLD PAWN BROKERS INC

THOMAS M BAKER

v.

STATE OF ARIZONA

WEBSTER CRAIG JONES

MESA CITY COURT
REMAND DESK CR-CCC

MINUTE ENTRY

MESA CITY COURT

Cit. No. #2001084712

Charge: PAWNBROKER FAILURE TO OBTAIN PLEDGOR'S OR SELLER'S
SIGNATURE ON REPORT, A CL 1 MISDEMEANOR

DOB: N/A

DOC: 11/14/01

This Court has jurisdiction of this appeal pursuant to the
Arizona Constitution Article VI, Section 16, and A.R.S. Section
12-124(A).

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This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the trial Court, exhibits made of record and the Memoranda submitted.

In the case at hand Appellant, the State, filed a criminal charge [A.R.S. §44-1625(D)] against Appellee, a corporation, for failing to file a report in violation of A.R.S. §44-1625. The violation of said section occurred when an employee of Appellee, Gold Pawn Brokers Inc., failed to have a pawn slip signed by a pledgor, which is required by A.R.S. §44-1625(C)(5). Appellee argues that A.R.S. §44-1631 only applies to "persons," and that a business entity is shielded from complaints brought against it, when those complaints concern alleged Title 44 violations.

The central issue in this matter is whether a corporation that owns a pawnshop can be criminally charged if it is found to be in violation of the pawnbroker statutes in Arizona.

After a careful review of the record and the applicable law, this court finds that Arizona law plainly holds that a corporation can be criminally liable for violations of Title 44. A.R.S. §13-105(26) states:

"Person" means a human being and, as the context requires, an enterprise, **a public or private corporation**, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property (emphasis added).

The Arizona criminal code plainly includes private and public corporations in its definition of "person." A.R.S. §44-1627(G) states:

A corporation shall own the entire equitable interest in its license through an agent if the agent is otherwise qualified to hold a pawnbroker license. The agent is subject to the penalties

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prescribed for any violation of law relating to pawnbrokers. On the death, resignation or discharge of an agent of a corporation holding a pawnbroker license, the corporation shall promptly assign the license to another qualified agent selected by the corporation (emphasis added).

Appellant correctly argues that nothing in the language of A.R.S §44-1627(G) precludes a corporation from criminal liability. This section merely provides that a person, such as an agent of a corporation, cannot escape criminal liability by means of a corporate shield. A.R.S. §13-305(A) clearly illustrates the fact that corporations are not shielded from criminal liability, for it states:

Notwithstanding any other provisions of law, an enterprise commits an offense if:

. . .

3. The conduct constituting the offense is engaged in by an agent of the enterprise while acting within the scope of employment and in behalf of the enterprise; and (a) The offense is a misdemeanor or petty offense.

Here, an agent of Appellee (a corporation) committed a misdemeanor offense while acting within the scope of his employment. Consequently, Appellee may be criminally liable. The Mesa City court erred when it dismissed the complaint brought by Appellant.

IT IS THEREFORE ORDERED reversing the decision of the Mesa City Court.

IT IS FURTHER ORDERED remanding this matter back to the Mesa City Court for all further and future proceedings.